

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GRAND JUROR DOE,)
)
)
Plaintiff,)
)
)
v.) Case 4:15-cv-6-RWS
)
)
ROBERT P. MCCULLOCH, in his)
official capacity as Prosecuting)
Attorney for St. Louis County,)
Missouri,)
)
)
Defendant.)

**DEFENDANT'S MEMORANDUM IN OPPOSITION TO
PLAINTIFF'S MOTION FOR REFERRAL TO MEDIATION**

Defendant Robert P. McCulloch, by and through counsel, opposes Plaintiff's Motion for Referral to Mediation (Doc. 91). Defendant fundamentally disagrees with Plaintiff's assessment that the parties may derive some benefit from mediating this case. To the contrary, a mediation here would not be meaningful and would serve only to further delay a final resolution in this matter.

The Missouri laws at issue in this lawsuit prohibit grand jurors from divulging certain information. These laws have been upheld by the Missouri trial court and appellate court that considered them. *Grand Juror Doe v. Robert P. McCulloch*, No. ED105181, 542 S.W.3d 354 (Mo.App. E.D. 2017). Defendant is simply not able to negotiate or enter into any agreement

obviating these laws. Defendant, therefore, cannot participate in good faith in any mediation in this case.

Under Local Rule 6.01, cited in Plaintiff's motion, the Court may only refer "appropriate" civil cases to mediation. For the reasons stated above, this is not an "appropriate" case for mediation.

Defendant respectfully requests that the Court deny Plaintiff's Motion for Referral to Mediation.

Respectfully submitted,

JOSHUA D. HAWLEY,
Attorney General

/s/ Andrew D. Kinghorn

Andrew D. Kinghorn, #66006MO
Assistant Attorney General
Post Office Box 861
St. Louis, MO 63188
Phone: 314-340-7861
Fax: 314-340-7029
Andrew.Kinghorn@ago.mo.gov

Peter J. Krane
St. Louis County Counselor's Office
Missouri Bar No. 32546
41 South Central Avenue
Clayton, MO 63015
Phone: (314) 615-7042
PKrane@stlouisco.com

*Attorneys for Defendant Robert P.
McCulloch*

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of December, 2018, the foregoing was filed with the Court in person and a copy was served by hand delivery to Plaintiff's counsel.

/s/ Andrew D. Kinghorn

Andrew D. Kinghorn
Assistant Attorney General